



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,126	03/14/2001	Torben Halkier	3631-0108P	6308

2292 7590 09/04/2003

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

NICHOLS, CHRISTOPHER J

ART UNIT	PAPER NUMBER
----------	--------------

1647

DATE MAILED: 09/04/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/787,126

Applicant(s)

HALKIER ET AL.

Examiner

Christopher Nichols, Ph.D.

Art Unit

1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1,3,5,8-12,17-24,28,57 and 58

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

ADVISORY ACTION

1. The Response filed 12 August 2003 (Paper No. 15) in reply to the Office Action mailed on 8 May 2003 (Paper No. 14) has been taken into consideration and is not persuasive. The arguments have been addressed in the previous Office Action (Paper No. 14, 8 May 2003) and no new arguments or evidence have been presented.
2. The Declaration under 37 CFR 1.132 filed 21 August 2003 (Paper No. 16) is insufficient to overcome the rejection of claims 1, 3, 5, 8-12, 17-24, 28, 57, and 58 based upon lack of enablement under 35 U.S.C. §112 ¶1 as set forth in the last Office action because: The Declaration is drawn to evidence surrounding the use of RANKL AutoVac™ to produce antibodies and for a method of reducing bone loss in post-menopause (ovariectomy) and rheumatoid arthritis mouse models. While showing evidence for the use of RANKL AutoVac™ to decrease bone loss, neither RANKL AutoVac™ nor the method of reducing bone loss are commensurate in scope with the “modified OPGL” recited in the claims. Further, no evidence was presented in said Declaration concerning the down-regulation of OPGL; the Applicant correlated the decrease in bone loss with a “down-regulation of OPGL” although no nexus was established.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher James Nichols, Ph.D.** whose telephone number is 703-305-3955. The examiner can normally be reached on Monday through Friday, 8:00AM to 5:00PM.

Art Unit: 1647

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gary Kunz, Ph.D.** can be reached on 703-308-4623. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications. The fax phone numbers for the customer service center is 703-872-9305

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Elizabeth C. Kemmerer

CJN
August 29, 2003

ELIZABETH KEMMERER
PRIMARY EXAMINER